

**WILLIAMSBURG CITY COUNCIL
OCTOBER 9, 2008
MINUTES**

The Williamsburg City Council held its regular monthly meeting on October 9, 2008, at 2:00 p.m., in the Council Chambers of the Stryker Building.

ATTENDANCE

Present were Ms. Zeidler, Ms. Knudson, and Messrs. Haulman, Freiling and Braxton. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist.

Staff Attending: Assistant City Manager Miller, Deputy City Attorney Workman, Economic Development Manager DeWitt, Communications Specialist Hoving, and Department Heads Nester, Hudson, Serra, Clayton, Weiler, Walentisch, Yost, and Weiler.

CALL TO ORDER

Mayor Zeidler called the meeting to order.

COUNCIL MINUTES

Ms. Knudson Moved That City Council Approve the Minutes of the September 8, 2008 Work Session and the September 11, 2008 regular meeting. The Motion Was Seconded by Mr. Braxton.

Recorded Vote on the Motion:

Aye: Mr. Freiling, Mr. Braxton, Ms. Zeidler, Mr. Haulman, Ms. Knudson

No: None

Matters of Special Privilege

Presentation of Diploma to Mark Barham, IT Manager

Mayor Zeidler asked Mr. Barham to join her at the podium where she presented him with his degree in Bachelor of Science in Information Technology from the University of Phoenix. She commended his efforts to obtain his degree while doing great work for the city.

Mr. Barham thanked Mr. Tuttle and Mr. Serra for their encouragement, and thanked his wife and children for their support.

Williamsburg PaintFest Mural and Certificate Presented to the City of Williamsburg

Mr. Bob Tubbs presented Council with a six-panel flag mural and certificate in recognition of valuable contributions to the citizens, schools, health care and civic organizations throughout the community and the Historic Triangle. Sponsors of the project were Williamsburg Landing, Eastern State Hospital, Riverside Hospital, College of William and Mary, Sentara Hospital, and the Williamsburg Rotary.

Mayor Zeidler thanked Mr. Tubbs for the presentation. She noted that 300 people participated in the project.

Citizen Comment

Draft of 2009-2010 Goals, Initiatives, and Outcomes

The Mayor said that the city was mid-point in the process of drafting its goals, initiatives, and outcomes for 2009-2010. Council reviewed the draft at the Monday work session and now invites citizen comment.

Mr. David Kranbuehl, 201 Harrison Avenue, referenced Mr. Tuttle's comments made at the October 4 Neighborhood Council meeting regarding economic, social, and physical lenses of our community and how they overlap. Mr. Kranbuehl suggested that overlapping items be "starred" in the city's budget and CIP. He suggested money be set aside for improvement of the substructure of Williamsburg proper for the city's economic well being. Mr. Kranbuehl provided Council with a map of business locations in Carmel, California, and suggested a similar map for Williamsburg. Uniform beautification of our corridors would make Williamsburg so attractive people would want to return. He recommended a committee be formed for sharing ideas to promote Williamsburg.

Pat Bell, Executive Director, Williamsburg Hotel/Motel Association, spoke in support of the city's goal of achieving 900 room nights as presented in the 2009-2010 goals document. This goal is achievable and she welcomed the opportunity to work collaboratively with all to reach the goal to ensure the economic vitality of the city.

Chris Canavos, owner of Capitol Pancake House/Country Inn and Suites, also supported the goal of 900 room nights. He referenced a study done by the Nichols Group regarding tourism. Attendance at Colonial Williamsburg was one of the items addressed in the study. At that point, his industry made a decision to tax itself and identified that certain levels of occupancies were needed. He addressed current occupancy rates. It is important to understand what level of business is needed for the industry to be successful and our infrastructure must be supported. He pointed out that with the economic downturn, and after the tourism season ends on Labor Day, many local people lose their jobs and pay which has an effect on the local economy. He asked for Council's support and that they do not change the goal of room nights.

Mayor Zeidler said that Council will continue to work on the draft goals and that people are encouraged to post their comments at "Peak Democracy" on the city's website. Council will hear comments again at the November work session with adoption scheduled for November 13.

PUBLIC HEARINGS

City Charter Amendment

Mr. Tuttle said the public hearing notice for this item was advertised in the newspaper as required by State Code. Council members received a copy of the ad, the proposed ordinance and charter, as well as a compare copy.

Mayor Zeidler opened the public hearing.

Mr. Phillips noted that the proposed charter was changed to reflect the correct amount of fine for a misdemeanor from \$1,500 (amount advertised) to \$2,500.

No one wished to speak. The hearing was closed.

Mr. Phillips said that once Council adopts the proposed ordinance, copies would be sent to representatives Norment and Barlow, and to the General Assembly for review, and hopefully, approval.

Mr. Haulman Moved that City Council Adopt Proposed Ordinance #08-27, An Ordinance to Request the General Assembly of the Commonwealth of Virginia at its 2008/2009 Session to Amend and Restate the Charter of the City of Williamsburg. The Motion Was Seconded by Mr. Braxton.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Knudson

No: None

(See Adopted Ordinance #08-29)

REPORTS

Monthly Financial Statement

The Financial Report was received and ordered filed.

Mr. Tuttle provided Council with a regional overview of "Williamsburg Area Tourism Statistics" and a report on city room and meal tax receipts as of September 30, 2008 for FY 2005 through for FY 2009 (to date). Council members and Mr. Tuttle discussed the reported figures. Mr. Haulman noted that it would be interesting to add timeshare numbers to this information because they are a growing competitor for hotels/motels. The report already includes B&Bs because they pay the \$2.00 tax. Mr. Tuttle explained that fiscal year 2005 and 2006 were relatively flat growths with a boost reflecting the events of the 400th Anniversary in FY 2007 and part of FY 2008. Now in 2009, the figures are closer to two years ago.

Monthly Departmental Operating Reports

The Monthly Departmental Reports were received and ordered filed.

Planning Report

PCR #06-037: Amend the Subdivision Ordinance to Create An Approval Procedure for Minor Subdivision Plats and Boundary Line Adjustments, and to Revise the Procedure for Approving Development Plans

Reference for this item was Mr. Nester's report dated October 9, 2008. This matter was part of the plan review process streamlining that Planning Commission started in 2006. Following its public hearing in February 2008, Council tabled action on this matter until after implementation of the Comprehensive Plan. Mr. Nester reviewed the amendments to the subdivision review process as outlined in the proposed ordinance for minor subdivision plats, boundary line adjustments and vacations of interior property lines, and preliminary plats.

- A category for Minor Subdivision Plats will be created, allowing the Planning Department to approve subdivisions of five or less lots that front on an existing public street and meet all zoning requirements.

- A category for Boundary Line Adjustments will be created, allowing the Planning Department to approve the reconfiguration of existing lots, or the vacation of interior property lines, that meet the applicable zoning requirements. This codifies what has been done administratively for the past 20 years.
- Preliminary plats (25 or more lots) will continue to be reviewed and approved by Planning Commission (public hearing required) and City Council.
- Development plans for six to 24 lots (not requiring a preliminary plat) will continue to be approved by the Planning Commission, with advice from the Site Plan Review Committee.
- Development plans for 25 or more lots (requiring a preliminary plat) will be reviewed and approved by the Planning Department instead of by the Planning Commission, provided that the development plan is in accord with the approved preliminary plat.
- Final plats would continue to be approved by the Planning Department.

Mr. Nester concluded by saying that these changes are intended to streamline the process. Planning Commission would continue to have a major role. Planning Commission recommended approval of the proposed ordinance.

Council members and Mr. Nester discussed amending the review process for preliminary plats with minor changes. Major changes to a plan would require another review process.

Mr. Nester defined minor changes and major changes. As long as the development plan is in accord with the approved preliminary plat, the appropriate process would be administrative review and approval.

Ms. Knudson had concerns about determining what constitutes a major change to a plan being subjective and further removing citizens from the review process.

Mr. Freiling clarified that the development plan does not pertain to aesthetics and architectural plans, but lot line locations, traffic flow, stormwater management, engineering plans, etc.

Mr. Nester said the preliminary plat and the development plan look basically the same with more details included on the development plan. Subdivisions are governed by the regulations in the zoning ordinance.

Mr. Haulman asked if there was some type of public notice to let people know the development plan is under review. Ms. Knudson liked the idea of notice. Mr. Nester noted that the preliminary plan would have already gone through the required reviews.

Mayor Zeidler felt the review process was adequate. Mr. Nester felt the process was a good process. If Council prefers that more notice is necessary, it only has to leave the ordinance as presented.

Mr. Haulman said it was good that people know when the development plan was being reviewed.

Mr. Freiling commented that changes do take place during the plan process. Do we really need that second step of oversight? Staff already makes decisions as to acceptable changes. Mr. Haulman was concerned about taking away the additional review.

Mayor Zeidler said that input should be meaningful; not just another hoop to jump through. It would be redundant work to place on the agenda.

Mr. Phillips added that vested rights are addressed in a State Code amendment. Anyone that has received governmental approval of a preliminary subdivision plat, development plan, or site plan, and diligently assumes approval, has vested rights. If a preliminary subdivision plat, site plan, or development plan is approved, and a person spends money on that project, and unless they have significantly deviated from the approval plan, they have a vested right. There are many other administrative controls and safety valves in place, such as the Ches Bay Act. The definition of change is not addressed, and he was not sure how you would specifically define these changes. And, what is the appeal process?

Mr. Freiling was concerned about the staff's time, and the applicant's time and expense.

Mayor Zeidler said that meaningful dialog with citizens is needed, but she was not sure that not making this recommended change accomplished that.

Mr. Haulman agreed with the changes to the proposed ordinance with the exception of the language regarding review of large developments; this would be another check.

Mr. Haulman Moved Approval of Proposed Ordinance #07-12, An Ordinance Amending the Williamsburg Subdivision Ordinance, by Creating An Approval Procedure for Minor Subdivision Plats and Boundary Line Adjustments, and Revising the Procedure for Approval of Development Plan, with Amendment to Section 25-31(b) to Retain Review by the Planning Commission (and any other necessary changes). Ms. Knudson Seconded the Motion.

Mr. Freiling said that he would be more comfortable voting for the ordinance as presented, but will vote for the amendment.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Knudson

No: None

(See Adopted Ordinance #08-30)

City Manager Reports

2009 Proposed Legislative Priorities

Reference for this item was Mr. Tuttle's report dated October 2, 2008. Ms. Miller said that the focus of next year's priorities would be on the city's requested Charter Amendment. She said that she has contacted the city's regional partners (Colonial Williamsburg Foundation, the College of William and Mary, the Chamber and Tourism Alliance, James City County and York County) about regional legislative priorities, but there were no special requests from them. Council members were provided information about VML's Legislative

Program and the legislative positions of the W/JCC Schools. The Virginia Police Association will study the item about sentencing guidelines concerning illegal use of firearms and will include it in its agenda if appropriate. Ms. Miller reviewed the first draft of the legislative priorities:

City Charter Amendments

The city requests amendments to the City Charter, which update the Charter to reflect recent changes in State law and local city government procedures.

Recommended Funding Priorities

Virginia Tourism. In an era of declining state revenues, the Virginia Tourism Corporation now more than ever needs a meaningful level of funding to promote tourism in Virginia generally, and in the Historic Triangle in particular.

Transportation. Without substantial new statewide transportation related revenues, Virginia is in jeopardy of choking its economy by an under funded transportation system.

Public Education. The gains made in recent years in K-12 funding need to be maintained; and the cuts to higher education restored. Virginia is in danger of crippling some of the most prestigious higher education institutions in the world, including the College of William and Mary.

Funding Reductions to Local Government

The city recognizes that continued deterioration of state revenue collections will mean further reductions in state expenditures, including transfers to local government. In proportion to these reductions, however, the state needs to free local government of state control. More home rule and less state dictates over local revenues and local expenditures must accompany funding reductions.

Restrictions on Local Revenue Prerogatives

Williamsburg opposes further limitations on local revenue prerogatives, such as procedures and policy for real estate assessments and tax rates; redirection or restrictions of 599 Public Safety funding, and restrictions on business, professional and occupational taxing (BPOL

Consistent Voter Registration; Determination of Domicile

The city requests that Virginia electoral statutes be amended to more precisely prescribe the factors to be considered by voter registrars statewide in making their determinations of domicile, which will allow for a uniform approach in determining voter registration requirements.

The following suggestions were made by Council members:

- Mr. Freiling: Transportation: Recommended that this be less of an observation and more of a statement: "We support new state revenues for transportation without which Virginia is in jeopardy of choking its economy through an under funded transportation system."

Mr. Freiling asked, and Council concurred, that staff look at adding language under Transportation to address support of increased funding to improve/increase Amtrak

service along our rail corridor.

Mr. Freiling: Virginia Tourism: "In an era of declining state revenues, we support the Virginia Tourism Corporation that now more than ever needs a meaningful level of funding to promote tourism in Virginia, and in the Historic Triangle in particular."

Mr. Freiling: Consistent Voter Registration; Determination of Domicile: suggested: "The city requests that Virginia electoral statutes be amended to more precisely prescribe the factors to be considered by voter registrars statewide in making their determinations of domicile, which will allow for a uniform and inclusive approach in determining voter registration requirements."

Ms. Knudson said that she would continue searching for additional information about "domicile." It is hard to get a handle on this.

Mr. Phillips said definition of "domicile" appears in court cases. The concept is that "domicile" is where you call home, not for a defined period of time, but where you plan to be indefinitely. "Residence" is where you are for a defined period of time.

Mr. Tuttle said the revised Legislative Priorities would be on the November Council agenda.

City Attorney Report

Detection and Prevention of Identity Theft

Reference for this item was Ms. Workman's report dated October 2, 2008. Ms. Workman said that new federal regulations regarding identity theft policies require that creditors have a written policy in place by November 1, 2008. Staff developed the proposed policy in keeping with Department of the Treasury Guidelines. The action required of Council is to direct the Manager to include the adopted policy in Finance's Policy and Procedures Manual.

Mr. Freiling Moved That City Council Ratify the "Policies and Procedures for the Detection and Prevention of Identity Theft" and Direct the City Manager to Include the Policy in the Finance Department's Policy and Procedures Manual with Oversight by the Finance Director. The Motion Was Seconded by Mr. Braxton.

Recorded Vote on the Motion:

Aye: Freiling, Braxton, Zeidler, Haulman, Knudson

No: None

Unfinished Business

Charlton's Coffeehouse License Agreement (Deferred at September 11, 2008 CC meeting.)

Reference for this item was Mr. Tuttle's report dated September 30, 2008. Mr. Phillips said that at the September City Council public hearing, only one proposal was received and that was from Colonial Williamsburg. There was one modification to the lease regarding if the lease terminates prior to the expiration of the license, that the license would follow the ownership. He noted that Mr. Scott Spence was present representing the Foundation.

Colonial Williamsburg would like to move forward with this project.

Mr. Freiling disclosed that he is employed by the Colonial Williamsburg Foundation and will refrain from discussion and will abstain from voting on this matter.

Mr. Haulman Moved That City Council Authorize Execution of the License Agreement to Allow the Colonial Williamsburg Foundation to Construct the Charlton's Coffeehouse Front Porch and Sidewalk Encroaching on a Portion of Public Right-of-Way of Duke of Gloucester Street. The Motion Was Seconded by Ms. Knudson.

Recorded Vote on the Motion:

Aye: Braxton, Zeidler, Haulman, Knudson

No: None

Abstain: Freiling.

OPEN FORUM

David Witkowsky, resident, asked that Council consider installing bicycle racks on Merchants Square, Prince George Street, and other locations in the city.

The meeting adjourned at 3:33 p.m.

Approved: November 13, 2008

Jeanne Zeidler, Mayor

Shelia Y. Crist, MMC
Clerk of Council